

D.C. OFFICE OF HUMAN RIGHTS AND COMMISSION ON HUMAN RIGHTS**NOTICE OF PROPOSED RULEMAKING**

The Office of Human Rights and the Commission on Human Rights, pursuant to section 301(c) of the Human Rights Act of 1977 (Act), effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1403.01(c)) hereby give notice of intent to amend Chapter 8 of Title 4 of the District of Columbia Municipal Regulations (DCMR) governing “Gender Identity or Expression” in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The Office determined that individuals who are in police custody, incarcerated, or institutionalized provide unique circumstances which the previous regulations did not address. Therefore, the purpose of this amendment is to clarify how the gender identity or expression regulations apply to transgender individuals in District government custody. The rulemaking also repeals the requirement of gender-neutral signage for single-occupancy rest rooms, clarifies the types of accommodations that may be provided in gender-specific facilities where nudity is customary, and states the name requirements for identification badges of District government employees.

Chapter 8 of Title 4 DCMR is amended as follows:

A. Section 801 is amended by adding new subsections 801.3 and 801.4 to read as follows:

801.3 Nothing in this chapter shall require an agency of the District of Columbia government to classify, house, or provide access to gender-specific facilities to transgender individuals according to their gender identity or expression if the transgender individual is incarcerated, institutionalized, or otherwise within the District’s custody. A District agency may make reasonable inquiry to determine whether an individual in custody is transgender.

801.4 Classification and assignment for transgender individuals within District government custody shall be based on, among other things, the safety and security of the transgender individual, the needs of the facility, and the safety and security of the other individuals in the facility to which the transgender person is assigned.

B. Subsection 802.2 is repealed.

C. Section 805 is amended by re-designating subsection 805.3 as subsection 805.4 and adding new subsection 805.3 to read as follows:

805.3 In gender-specific facilities where nudity is customary, reasonable accommodations may include, but shall not be limited to, shower dividers,

private or individual shower rooms, or other measures that promote the privacy of the individuals.

D. Section 806 is amended by adding a new subsection 806.5 to read as follows:

806.5 Identification badges for employees of the District of Columbia government must state the employee's legal name, as documented by the Department of Human Resources. The name affixed on the badge shall be changed after the employee provides proof of a formal name change through a court of competent jurisdiction.

Copies of this proposed rulemaking may be obtained at the District of Columbia Office of Human Rights, 441 4th Street, N.W., Suite 570 North, Washington, D.C. 20001. All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing to Alexis Taylor, General Counsel, at the same address, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF PROPOSED RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 101(b) of the Medical Malpractice Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-263; D.C. Official Code §§ 31-2703(f-1)(1)(B) and (f-1)(3)), hereby gives notice of his intent to establish a new Chapter 53, Title 26 (Insurance), of the District of Columbia Municipal Regulations in not less than thirty days from the date of the publication of this notice in the *D.C. Register*. The new chapter will set forth hearing rules and rate filing requirements for medical malpractice liability insurance companies.

A notice of the proposed rules was published in the *D.C. Register* on March 28, 2008 (55 DCR 3321). As the result of comments submitted to the Department, substantive changes were made to the March 28, 2008 version. Accordingly, the Commissioner is publishing this notice of the proposed rules for comment in their revised form.

A new Chapter 53 (Medical Malpractice Rules and Rate Filing Requirements), Title 26 (Insurance), of the District of Columbia Municipal Regulations, is established to read as follows:

**CHAPTER 53 MEDICAL MALPRACTICE LIABILITY
HEARING RULES AND RATE FILING
REQUIREMENTS**

5301 PURPOSE

5301.1 The purpose of this rule is to implement the provisions of An Act To provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 242; D.C. Official Code § 31-2701 *et seq.*), as amended by the "Medical Malpractice Amendment Act of 2006," effective March 14, 2007 (D.C. Law 16-263; 54 DCR 807)(hereinafter the "Act"), and to safeguard the public interest by allowing reasonable inspection and analysis of medical malpractice liability company rate plans and premium rates.

5302 FILING REQUIREMENTS AND PUBLIC NOTIFICATION

5302.1 All companies writing medical malpractice liability insurance in the District are subject to the provisions of this chapter. Every company shall file with the Commissioner of the Department of Insurance, Securities, and Banking (hereinafter the "Commissioner" and the "Department"), either directly or

through a licensed rating organization of which it is a member or subscriber, all rates and rating plans, rules, and classifications which it uses or proposes to use in the District.

5302.2 All rate filings are required to be submitted on-line via the National Association of Insurance Commissioner's System for Electronic Rate and Form Filing ("SERFF"). All such information requested as a part of a SERFF filing must be submitted or else the filing will not be accepted and will be deemed incomplete.

5302.3 The Commissioner shall notify the public, via a posting on the Department's website or any other means reasonably designed to provide meaningful and timely notice, of any application by a medical malpractice insurer of a premium rate change increase.

5302.4 The application shall be deemed approved 60 days after public notice unless the proposed rate change increase exceeds ten percent (10%). If the proposed rate increase exceeds ten percent (10%), the Commissioner shall hold a hearing on the proposed change and shall issue an order approving, denying or modifying the proposed change within 90 days after public notice of the proposed change.

5302.5 All information contained in a rate change application shall be made available to the public when requested or sought in accordance with the District of Columbia's Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*) ("FOIA"). It shall be the responsibility of the medical malpractice insurer filing an application to conspicuously mark and identify any and all documents for which the insurer desires to assert a confidential, proprietary, or privilege status. Any information not clearly marked in the rate change application will be available, upon proper request, for public inspection, including but not limited to, and at the Department's discretion, being posted on the Department's website.

5303 ADJUSTMENTS OF RATES

5303.1 Whenever it shall be made to appear to the Commissioner, either from his own information or from a complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risk or kinds of insurance within the scope of the Act, are excessive, inadequate or unfairly discriminatory, it shall be the Commissioner's duty, and he or she shall have the full power and authority, to investigate the necessity for an adjustment of any or all such rates.

5303.2 After an investigation of the rates, the Commissioner shall, before order an adjustment, hold a hearing upon not less than 10 days written notice

specifying the matters to be considered at the hearing, to every company and rating organization which filed the rates, provided, the Commissioner shall not be required to hold the hearing if he or she is advised in writing by every such company and rating organization admitted to write medical malpractice insurance in the District that they do not wish to contest the adjustment and thereby are waiving any right they may have to a hearing. The hearing shall be conducted in accordance with the hearing regulations provided at Chapter 38 of Title 26 of the District of Columbia Municipal Regulation ("DCMR"), and the cost shall be borne by the insurance company requesting the rate increase.

5303.3 If, after the hearing, the Commissioner determines that any or all of the rates are excessive, inadequate or unfairly discriminatory, he or she shall order an adjustment.

5303.4 An order of adjustment shall not affect any contract or policy made or issued prior to the effective date of the order unless:

- (1) The adjustment is substantial and exceeds the cost to the companies of making the adjustment; and
- (2) The order is made after the prescribed investigation and hearing and within 30 days after the filing of the rates affected.

5303.5 In determining the necessity for an adjustment of rates, the Commissioner shall be bound by the provisions of section 3 of the Act (D.C. Official Code § 31-2703).

5304 MANDATORY HEARINGS

5304.1 All hearings commenced as a result of a rate change increase exceeding ten percent (10%) shall be conducted in accordance with the Department's rules of practice and procedures for hearings found at 26 DCMR § 3800 *et seq.*

5304.2 In a hearing held by the Commissioner pursuant to this chapter, any person shall have the right to testify. However, the right to testify in a hearing under this chapter does not by itself confer upon such person the status of "party," as defined at 26 DCMR § 3819.

5305 USE OF EXPERIENCE OUTSIDE OF THE DISTRICT

5305.1 If a company is filing a new or "introductory rate filing," then the company will be permitted to use countrywide experience in support of the new product. If a company is filing to revise or adjust an existing rate but lacks actuarially credible experience for the District, then the company may use countrywide experience to supplement any of their District experience.

- 5305.2 Regardless of whether a filing is a new or introductory rate filing, or a revision to an existing rate, all companies must adequately explain why their experience for the District is not actuarially credible and how the experience they are using in place or as a supplement to their District experience is an appropriate substitute to support the rate filing.
- 5305.3 For the purposes of this section, an "introductory rate filing" shall mean an initial rate filing by a company that has not written medical malpractice liability insurance in the District, either directly or through an affiliate, within the past five-years (5) of the filing at issue. All other rate filings will be considered revisions or adjustments unless the Commissioner, upon request, expressly deems a filing to be an "introductory rate filing."

Persons desiring to comment on these proposed rules should submit comments in writing to Ms. Leslie E. Johnson, Hearing Officer, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the Department at the address above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

**FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY
PRACTICES**

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under D.C. Official Code § 34-1504(b) (2007 Supp.), hereby gives notice of its intent to adopt Chapter 42 of Title 15 DCMR, in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.¹

2. The proposed regulations establish the Commission's rules governing the submission of Fuel Mix and Emissions Disclosure Reports. These proposed rules replace the Interim Regulations recommended by the Retail Competition Working Group and later adopted by the Commission in Order No. 12765.²

CHAPTER 42 FUEL MIX AND EMISSIONS DISCLOSURE REPORTS

Section

4200	APPLICABILITY
4201	FUEL MIX AND EMISSIONS DISCLOSURE REQUIREMENTS
4202	WAIVER
4206-4298	[RESERVED]
4299	DEFINITIONS

4200 APPLICABILITY

4200.1 This Chapter establishes the Public Service Commission's ("Commission") regulations governing the disclosure of fuel mix and emissions applicable to an Electricity Supplier as provided in D.C. Official Code §§ 34-1504(c)(2) and 34-1517(b)-(c).

¹ D.C. Official Code § 34-1504(b) (2007 Supp.).

² *Formal Case No. 945, In The Matter Of The Investigation Into Electric Services Market Competition And Regulatory Practices*, Order No. 12765, rel. June 13, 2003.

4201**FUEL MIX AND EMISSIONS DISCLOSURE REQUIREMENTS**

- 4201.1 Each active District of Columbia Electricity Supplier and the Electric Company shall report every six (6) months the fuel mix of electricity sold and the emissions produced in accordance with D.C. Official Code §§ 34-1504(c)(2)(A)(i) and 34-1517(b).
- 4201.2 Each active Electricity Supplier and the Electric Company must submit a semi-annual Fuel Mix and Emissions Report ("Fuel Mix Report") to the Commission on June 1 and December 1. The June 1 report shall provide fuel mix and emissions information for the prior calendar year. The December 1 report shall provide fuel mix and emission information for the period January through June of the current year.
- 4201.3 Each Fuel Mix Report must contain the following information in accordance with D.C. Official Code §§ 34-1504(c)(2)(A)(i) and 34-1517(b):
- (a) The percentage of electricity generated from the following energy sources:
 - (1) Coal;
 - (2) Oil;
 - (3) Natural gas;
 - (4) Nuclear;
 - (5) Solar;
 - (6) Wind;
 - (7) Biomass;
 - (8) Captured methane gas from landfill gas or wastewater treatment plant;
 - (9) Water, including hydroelectric and ocean;
 - (10) Geothermal;
 - (11) Municipal solid waste; and
 - (12) Other.

(b) The emissions in pounds per megawatt-hour of:

- (1) Carbon dioxide;
- (2) Nitrogen oxides; and
- (3) Sulfur dioxide.

4201.4 In the Fuel Mix Report, the percentages for § 4201.3(a)(5) through (11) above should also be added together and designated as the "Renewable Energy Resources Subtotal."

4201.5 For electricity sold by an Electricity Supplier or the Electric Company that is from a specific generation resource, including any renewable energy credits associated with generation in the reporting period, the Electricity Supplier or the Electric Company shall include the specific generation resource in its Fuel Mix Report.

4201.6 For electricity sold by an Electricity Supplier or the Electric Company that is not from specific generation resources, the Electricity Supplier or the Electric Company shall include the PJM Environmental Information Services, Inc. ("PJM EIS") average residual fuel mix statistics, by generation resource, in its Fuel Mix Report. Pursuant to § 4201.2 for the Fuel Mix Reports to be submitted by December 1 covering the time period January through June of the current year, Electricity Suppliers and the Electric Company may use estimates, if the actual numbers are unavailable, when reporting residual fuel mix statistics.

4201.7 A Fuel Mix Report shall be in a format similar to the information provided by the PJM EIS.

4201.8 Each Electricity Supplier and the Electric Company shall provide a Fuel Mix Report to its customers in the District of Columbia within the June and December billing cycles each year in accordance with D.C. Official Code §§ 34-1504(c)(2)(B)-(C) and consistent with § 4201.3 of this Chapter. The Fuel Mix Report submitted to the Commission shall indicate that the information is also being disclosed to customers.

4201.9 If an Electricity Supplier or the Electric Company fails to file a semi-annual Fuel Mix Report or to disclose the information to its customers as required by this Chapter and D.C. Official Code §§ 34-1504(c)(2)(B)-(C), that company may be subject to Commission action. In addition, pursuant to D.C. Official Code § 34-1508, failure to file a Fuel Mix Report or disclose information to customers may result in suspension or revocation of a license to supply electricity or imposition of a civil penalty up to \$10,000 per violation.

4202 WAIVER

The Commission reserves the right to waive any provision of these rules for good cause shown.

4202-4298 (Reserved)

4299 DEFINITIONS

4299.1 For the purposes of this chapter:

“Biomass” means a solid, nonhazardous, cellulosic waste material that is segregated from other waste materials and is derived from any of the following forest-related resources, with the exception of old growth timber, unsegregated solid waste, or post-consumer waste paper: (a) mill residue, (b) precommercial soft wood thinning, (c) slash, (d) brush, (e) yard waste, (f) waste pallet, crate or dunnage, and (g) agricultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues.

“Commission” means the Public Service Commission of the District of Columbia.

“Electric company” means every corporation, company, association, joint-stock company or association, partnership, or person doing business in the District of Columbia, their lessees, trustees, or receivers appointed by any court whatsoever, physically transmitting or distributing electricity in the District of Columbia to retail electric customers. The term excludes any building owner, lessee, or manager who, respectively, owns, leases, or manages, the internal distribution system serving the building and who supplies electricity and other electricity related services solely to the occupants of the building for use by the occupants.

“Electricity supplier” means a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges, or markets electricity for sale to customers. The term excludes the following:

- (a) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to occupants of the building for use by the occupants;
- (b) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or
- (c) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not:

- (1) Take title to the electricity;
- (2) Market electric services to the individually-metered tenants of the building; or
- (3) Engage in the resale of electric services to others;
- (d) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property; and
- (e) A consolidator.

“Hydroelectric” means power produced through conventional hydroelectric turbines.

“Ocean” means power produced from currents, tides, waves, and thermal differences.

“PJM Environmental Information Services” means the wholly-owned subsidiary of PJM Technologies, Inc. that provides environmental and emissions attributes reporting and tracking services to its subscribers.

“Residual fuel mix” means the net amount of generation remaining after subtracting from the total generation occurring during a year any generation that has been removed through specific claims on such generation.

3. All persons interested in commenting on this proposed rulemaking may submit comments, in writing, no later than thirty (30) days after the date of publication of this NOPR in the *D.C. Register*. Persons interested in submitting reply comments may do so no later than forty-five (45) days after the date of publication of this NOPR in the *D.C. Register*. All comments and replies must be sent to Dorothy M. Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., Suite 200, West Tower, Washington, DC 20005. Copies of these proposed rules may be obtained, at cost, by writing to the Commission Secretary at the above address or on the Commission’s website at www.dcpssc.org. Once the comment period has expired, the Commission will take final rulemaking action.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF PROPOSED RULEMAKING

TELEPHONE TARIFF 08-7, IN THE MATTER OF THE APPLICATION OF
VERIZON WASHINGTON, DC INC FOR AUTHORITY TO AMEND THE
GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Official Code Section 2-505,¹ of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon" or "Verizon DC")² in the above-captioned matter in not less than thirty (30) days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On June 17, 2008, Verizon DC filed an application requesting authority to amend the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C.-NO. 203
Section 4, 4th Revised Page 6

3. Verizon DC proposes to increase the monthly recurring rates for two of its services: Nonpublished Listing Service from \$1.17 to \$1.34, an increase of 14.5%; and Nonlisted Service from \$.62 to \$.71, an increase of 14.5%.³ Verizon DC asserts that the proposed revisions are filed pursuant to § 3(a) of the Price Cap Plan 2004 ("Plan").⁴ In addition, Verizon DC states that the services are classified as Discretionary Services under the Plan and that rate increases for these services are therefore limited to 15% annually.⁵

4. The complete text of the General Services Tariff is on file with the Commission. A copy of the proposed tariff revision may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., 2nd Floor, West Tower, Washington, D.C.

¹ D.C. Official Code, § 2-505 (2001 Ed.).

² *TT08-7, In the Matter of the Application of Verizon Washington, DC Inc. For Authority to Amend the General Services Tariff, P.S.C.-D.C. – No. 203 ("TT08-7")*, Letter from J. Henry Ambrose of Verizon Washington, DC Inc. to Dorothy Wideman, Commission Secretary, filed June 17, 2008 ("Application").

³ See Application at 1.

⁴ See Formal Case No. 1005, *In the Matter of Verizon Washington, DC, Inc.'s Price Cap Plan 2004 for the Provision of Local Telecommunications Services in the District of Columbia*, Order No. 13370, rel. September 9, 2004, ("Price Cap Plan" or "Plan").

⁵ See Application at 1.